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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,204	10/22/2001	Larry E. Ayres	23484-019	2465
7590	02/14/2007		EXAMINER	
Shane Hunter, Esq. Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C One Financial Center Boston, MA 02111			SERRAO, RANODHI N	
			ART UNIT	PAPER NUMBER
			2141	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/14/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/057,204	AYRES ET AL.
	Examiner	Art Unit
	Ranodhi Serrao	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 December 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 26-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1,3-5,9-13,16 and 18-25 is/are allowed.

6) Claim(s) 26-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 December 2006 has been entered.

***Response to Arguments***

2. Applicant's arguments, see remarks, filed 18 December 2006, with respect to claims 1, 3-5, 9-13, 16, and 18-25 have been fully considered and are persuasive. The rejection of these claims has been withdrawn.

3. Applicant's arguments with respect to claims 26-32 have been considered but are moot in view of the new ground(s) of rejection. The applicant argued in substance the newly added limitations of claim 26. However, the new grounds teach these and the added features. See rejections below.

***Allowable Subject Matter***

4. Claims 1, 3-5, 9-13, 16, and 18-25 are allowed.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al. (6,542,812) and Stern (6,654,757). Obradovich et al. teaches a system comprising: a multimedia server configured to provide multimedia data; a multimedia receiver configured to receive multimedia data (see Obradovich et al., col. 10, line 63-col. 11, line 23); a distributed network of multimedia distribution devices coupled to the multimedia server and the multimedia receiver and configured to communicate with the server and receiver to transfer multimedia data (see Obradovich et al., col. 7, lines 21-34); wherein each multimedia distribution device is configured to wirelessly detect the presence of at least one user device, to determine whether the user device is a subscriber or a non-subscriber (see Obradovich et al., col. 8, lines 30-50), and to invoke a payment process (see Obradovich et al., col. 8, lines 9-29), and the server is configured to provide multimedia data to a selected distribution device, and the receiver is configured to receive multimedia data from the selected distribution device (see Obradovich et al., col. 12, lines 23-35), in accordance with future-location indicia indicative of a future location of the at least one user device (see Obradovich et al., col. 1, lines 47-64). But fails to teach to store usage statistics associated with the user device. However, Stern teaches to store usage statistics associated with the user device (see Stern, col. 14, line 56-col. 15, line 9). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Obradovich et al. to

store usage statistics associated with the user device in order to track consumer information (see Stern, col. 27, lines 8-61).

7. Claims 27-29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al. and Stern as applied to claim 26 above, and further in view of Nii (2002/0065730).

8. As per claim 27, Obradovich et al. and Stern teach the mentioned limitations of claim 26 above, but fail to teach a system wherein the distribution devices are configured to provide the multimedia data in a physical storage medium. However, Nii teaches a system wherein the distribution devices are configured to provide the multimedia data in a physical storage medium (see Nii, paragraph 0053). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the above to a system wherein the distribution devices are configured to provide the multimedia data in a physical storage medium in order to deliver multimedia content in a convenient and economical, yet secure, manner (see Nii, paragraph 0016).

9. As per claim 28, Obradovich et al., Nii, and Stern teach the mentioned limitations of claims 26 and 27 above, but Obradovich et al. and Stern fail to teach a system wherein the medium is one of a cassette tape, a compact disc, a digital video disc, a digital audio tape, and a memory chip. However, Nii teaches a system wherein the medium is one of a cassette tape, a compact disc, a digital video disc, a digital audio tape, and a memory chip (see Nii, paragraph 0016: wherein IC card functions as a memory chip). It would have been obvious to one having ordinary skill in the art at the

time of the invention to modify the above to a system wherein the medium is one of a cassette tape, a compact disc, a digital video disc, a digital audio tape, and a memory chip in order to deliver multimedia content in a convenient and economical, yet secure, manner (see Nii, paragraph 0016).

10. As per claim 29, Obradovich et al. and Stern teach the mentioned limitations of claim 26 above, but fail to teach a system wherein the wireless communication is according to a short-range wireless protocol. However, Nii teaches a system wherein the wireless communication is according to a short-range wireless protocol (see Nii, ¶ 7). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the above to a system wherein the wireless communication is according to a short-range wireless protocol in order to deliver multimedia content in a convenient and economical, yet secure, manner (see Nii, paragraph 0016).

11. As per claim 32, Obradovich et al. and Stern teach the mentioned limitations of claim 26 above but fail to teach a system wherein each distribution device is configured to provide suggestions of multimedia data to the user device wherein the suggestions are associated with a profile of a user, the user device, the user statistics and characteristics of multimedia data available through the server. However, Nii teaches a system wherein each distribution device is configured to provide suggestions of multimedia data to the user device wherein the suggestions are associated with a profile of a user, the user device, the user statistics and characteristics of multimedia data available through the server (see Nii, paragraph 0079). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the above to a

system wherein each distribution device is configured to provide suggestions of multimedia data to the user device wherein the suggestions are associated with a profile of a user, the user device, the user statistics and characteristics of multimedia data available through the server in order to deliver multimedia content in a convenient and economical, yet secure, manner (see Nii, paragraph 0016).

12. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al. and Stern as applied to claim 26 above, and further in view of Kondou et al. (6,073,075).

13. As per claim 30, Obradovich et al. and Stern teach the mentioned limitations of claim 26 above, but fail to teach a system further comprising a location server configured to provide present-location indicia indicative of a present location of the user device, and wherein the network is configured to communicate with the user device via a distribution device determined in accordance with the present location of the user device. However, Kondou et al. teaches a system further comprising a location server configured to provide present-location indicia indicative of a present location of the user device, and wherein the network is configured to communicate with the user device via a distribution device determined in accordance with the present location of the user device (see Kondou et al., col. 2, lines 26-52). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Obradovich et al. and Stern to a system further comprising a location server configured to provide present-location indicia indicative of a present location of the user device, and wherein the network is

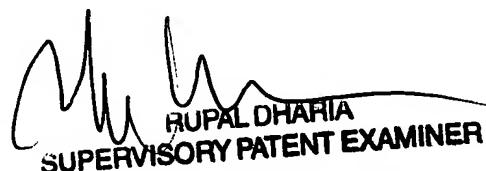
configured to communicate with the user device via a distribution device determined in accordance with the present location of the user device in order to provide a communication method capable of providing the user with proper information on a real time basis (see Kondou et al., col.1, lines 59-63).

14. As per claim 31, Obradovich et al. and Stern teach the mentioned limitations of claim 26 above, but fail to teach a system further comprising a location server configured to determine the future-location indicia in accordance with a present location of the user device, a present speed of travel and a present direction of travel. However, Kondou et al. teaches a system further comprising a location server configured to determine the future-location indicia in accordance with a present location of the user device, a present speed of travel and a present direction of travel (see Kondou et al., col. 13, lines 17-57). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Obradovich et al. and Stern to a system further comprising a location server configured to determine the future-location indicia in accordance with a present location of the user device, a present speed of travel and a present direction of travel in order to provide a communication method capable of providing the user with proper information on a real time basis (see Kondou et al., col.1, lines 59-63).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-4:30pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER